



PATRICIA SABALIS
psabalis@drm.com
Fax: (802) 862-7512

VIA FEDERAL EXPRESS

August 24, 2004

Tony Anastas, Clerk of Court
U.S. District Court for the District of
Massachusetts
1 Courthouse Way
Boston, MA 02210

Re: Francis E. Dybes, and Others Similarly Situated v. Delta Elevator Service Corporation
d/b/a Delta/Beckwith Elevator Company
C.A. File No. 04 CV 10076 MLW

Dear Clerk Anastas:

Enclosed for filing with the Court is the certified copy of all records and proceedings in the state court and of all docket entries in the state court.

Thank you for your assistance. Please feel free to contact me if you have any questions.

Sincerely,

A handwritten signature in cursive script, appearing to read "Patricia M. Sabalis".

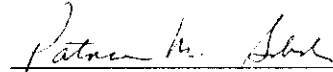
Patricia M. Sabalis

Encs.

cc w/encs.: Michael J. Doheny, Esq.

Tony Anastas
March 1, 2004
Page 2

I hereby certify that a true copy of the above document and attachments was served upon Michael J. Doheny, Esq., attorney of record for Plaintiff, by mail on August 24, 2004.



Patricia M. Sabalis

SEGAL, ROITMAN & COLEMAN

COUNSELLORS AT LAW
11 BEACON STREET
SUITE 500
BOSTON, MASSACHUSETTS 02108

ROBERT M. SEGAL (1915-1999)
DONALD J. SIEGEL
PAUL F. KELLY
IRA SILLS
MARY THOMAS SULLIVAN*
SHELLEY B. KROLL
BURTON E. ROSENTHAL
ANNE R. SILLS
KATHRYN S. SHEA
INDIRA TALWANI**
ELIZABETH ARIENTI SLOANE
MICHAEL J. DOHENY
JACQUELINE M. NUNEZ

OF COUNSEL
RICHARD W. COLEMAN
HAROLD B. ROITMAN
JOANNE F. GOLDSTEIN
JOSEPH P. MCKENNA, JR.
PAUL S. HOROVITZ

December 22, 2003

* Also Admitted to the
New Hampshire Bar

**Also Admitted to
the California Bar

BY HAND

Roxbury District Court
Civil Clerk
85 Warren Street
Roxbury, MA 02119

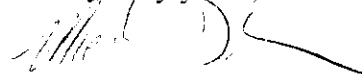
Re: Francis E. Dybes, et al. v. Delta Elevator Service

To Whom It May Concern:

Enclosed for filing please find an original and one (1) copy of the Complaint and a Statement of Damages form relative to the above-referenced matter. Also enclosed please find a check for \$195.00 for filing fees. Kindly date-stamp, including the docket number, the copy and return it to this office with the messenger.

Thank you for your attention and assistance.

Very truly yours,



Michael J. Doheny

Encl.

Cc: Michael Langer, Business Manager, IUEC, Local 4

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DEC 22 PM 2:52

**CIVIL
DOCKET****200302CV000550****Trial Court of Massachusetts
District Court Department****CASE NAME****FRANCIS E. DYBES, AND OTHERS SMILARY SITUATED vs. DELTA ELEVATOR SERVICE CORPORATION A/K/A COMPANY DELTA/BECKWITH ELEVATOR****CURRENT COURT**

Boston Municipal Court, Roxbury Div.
85 Warren Street
Roxbury, MA 02119-3294
(617) 427-7000

ASSOCIATED DOCKET NO.**DATE FILED**

12/24/2003

DATE DISPOSED

00/00/0000

PLAINTIFF(S)**P01 FRANCIS E. DYBES, AND OTHERS SMILARY SITUATED****PLAINTIFF'S ATTORNEY**

PAUL F. KELLY
11 BEACON ST
BOSTON, MA 02108
(617) 742-0208

DEFENDANT(S)/OTHER SINGLE PARTIES**D01 DELTA ELEVATOR SERVICE CORPORATION A/K/A COMPANY DEL****DEFENDANT'S ATTORNEY**

NO.	ENTRY DATE	DOCKET ENTRIES
1	12/24/2003	Complaint filed on 12/24/2003 at Boston Municipal Court, Roxbury Div..
2	12/24/2003	Appearance for Francis E. Dybes, And Others Smilary SITUATED filed by Attorney PAUL F. KELLY 11 Beacon St Boston MA 02108 BBO# 267000
3	12/24/2003	Filing fee of \$180.00 and surcharge of \$15.00 paid (G.L. c.262 §§ 2 & 4C).
4	12/24/2003	Case Inactivated: No future events scheduled.
5	01/13/04	Notice Of Filing Notice Of Removal Filed And Cert. Of Service

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

DISTRICT COURT DEPARTMENT OF
THE TRIAL COURT,
ROXBURY DIVISION

FRANCIS E. DYBES, AND
OTHERS SIMILARLY SITUATED,

Plaintiffs,

v.

DELTA ELEVATOR SERVICE
CORPORATION d/b/a
DELTA/BECKWITH ELEVATOR
COMPANY,

Defendant.

C.A. No.

COMPLAINT AND DEMAND FOR JURY TRIAL

Introduction

1. This is an action for non-payment of wages owed under G.L. c. 149, § 148. Plaintiff Francis E. Dybes works as an elevator service mechanic for Defendant Delta Elevator Service Corporation d/b/a Delta/Beckwith Elevator Company ("Delta/Beckwith"). Francis E. Dybes and others similarly situated to him were not paid holiday pay by Delta/Beckwith for Columbus Day, October 13, 2003, although Dybes and others similarly situated to him should have received such compensation. Plaintiff Dybes brings this action for damages on his own behalf and for others similarly situated, as provided in G.L. c. 149, § 150.

DEC 22 PM 2:54

Parties

2. Plaintiff Francis E. Dybes resides at 9 Chambers Court, Mansfield, Bristol County, Massachusetts.

3. Defendant Delta Elevator Service Corporation d/b/a Delta/Beckwith Elevator Company is a corporation duly organized under the laws of the Commonwealth of Massachusetts with a principal place of business at 274 Southampton Street, Boston, Suffolk County, Massachusetts.

Facts

4. Plaintiff Dybes has been employed by Defendant or its predecessor for approximately 30 years.

5. Prior to 2002, Defendant paid to Plaintiff Dybes holiday pay for Columbus Day each year, pursuant to an agreement between the parties.

6. In 2002 Defendant initially disputed Plaintiff Dybes' right to wages for Columbus Day, but eventually paid Plaintiff Dybes for Columbus Day 2002, following final and binding arbitration of the matter between Plaintiff's collective-bargaining representative, International Union of Elevator Constructors, Local 4, AFL-CIO, and Delta/Beckwith, in which the arbitrator determined that Delta/Beckwith was obligated to pay certain of its employees for Columbus Day.

7. Plaintiff Dybes was entitled to holiday pay for Columbus Day, October 13, 2003.

8. Defendant failed and refused to pay Plaintiff Dybes for Columbus Day 2003.

9. On information and belief, there are other employees of Defendant similarly situated to Plaintiff Dybes.

10. On information and belief, other employees of Defendant are owed wages, as defined in G.L. c.149, §148, for Columbus Day 2003, pursuant to agreements between Defendant and those employees.

11. On information and belief, Defendant has failed and refused to pay holiday pay to those similarly situated employees.

12. Plaintiff Dybes made a demand of Defendant for the wages owed to him, but Defendant has still failed and refused to pay him those wages.

13. On November 17, 2003, a Non-Payment of Wage Complaint Form regarding this matter was filed with the Attorney General's Office.

14. By letter dated November 24, 2003, the Attorney General's Office authorized Plaintiff Dybes to immediately pursue this matter through a civil lawsuit.

Cause of Action

15. Plaintiffs incorporate herein paragraphs 1 through 14 above.

16. This is a cause of action against Defendant, under G.L. c. 149, §§ 148 and 150, for failure to pay wages due to Plaintiffs.

Prayer For Relief

WHEREFORE, Plaintiffs pray for relief as follows:

- A. For Judgment against Defendant in the amount of Plaintiffs' damages, trebled, with interest, costs, and attorneys fees;
- B. For such other and further relief as the Court deems just and proper.

Jury Claim

Plaintiffs claim a trial by jury on all issues so triable.

Respectfully submitted,

FRANCIS E. DYBES
AND OTHERS SIMILARLY SITUATED

By their attorneys,

A handwritten signature in black ink, appearing to read 'P. Kelly', written over a horizontal line.

Paul F. Kelly, Esq., BBO #267000
Michael J. Doheny, Esq., BBO #644476
SEGAL, ROITMAN & COLEMAN
11 Beacon Street, Suite 500
Boston, MA 02108
(617) 742-0208

Dated: December 22, 2003

45



PATRICIA SABALIS
psabalis@drm.com
Fax: (802) 862-7512

January 12, 2004

VIA FEDERAL EXPRESS

Clerk's Office
District Court Department of the Trial Court
Roxbury Division
85 Warren Street
Roxbury, MA 02119

Re: Francis E. Dybes, and Others Similarly Situated v. Delta Elevator Service Corporation
d/b/a Delta/Beckwith Elevator Company
C.A. File No. 03 02 CV 0550

Dear Sir/Madam:

Enclosed please find a Notice of Filing Notice of Removal in the above-reference matter. Also enclosed is a Certificate of Service. Please contact me if you have any questions.

Sincerely,

A handwritten signature in cursive script, appearing to read "Patricia M. Sabalis".

Patricia M. Sabalis

Encs.

cc w/encs.: Michael J. Doheny, Esq.

BTV.257773.1

JAN 16 AM 9:43

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

DISTRICT COURT DEPARTMENT OF
THE TRIAL COURT,
ROXBURY DIVISION

FRANCIS E. DYBES, AND OTHERS
SIMILARLY SITUATED,

Plaintiffs

v.

DELTA ELEVATOR SERVICE
CORPORATION d/b/a
DELTA/BECKWITH ELEVATOR
COMPANY

Defendants

C.A. File No. 03 02 CV 0550

JAN 13 4 51 PM '04

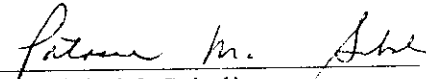
NOTICE OF FILING NOTICE OF REMOVAL

TO: THE CLERK OF THE DISTRICT COURT DEPARTMENT OF THE TRIAL COURT,
ROXBURY DIVISION

Please take notice that on January 12, 2004, Defendant filed in the United States District Court for the District of Massachusetts a Notice of Removal with respect to the complaint sent by Plaintiff Francis E. Dybes to Delta Elevator Service Corporation. This filing effects removal to the United States District Court for the District of Massachusetts pursuant to 28 U.S.C. § 1441. A copy of the Notice of Removal and related papers is attached.

Burlington, Vermont.

January 12, 2004



Patricia M. Sabalis

BBO #436730

Downs Rachlin Martin PLLC

199 Main Street, P.O. Box 190

Burlington, VT 05402-0190

(802) 863-2375

BTv.257716.2

DOWNS
RACHLIN
MARTIN PLLC